

LATE TESTIMONY



Hawaii Farm Bureau
F E D E R A T I O N

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9:45 am

Conference Room 325

House Committee on Water, Land, and Ocean Resources

Testimony on HB 1950

RELATING TO FIREARMS

Aloha Chair Chang, Vice Chair Har, and Members of the Committee,

I am Janet Ashman, testifying on behalf of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

We **strongly support** this simple, common sense bill that would require people who want to hunt on private property; our ranches and farms, to get written permission from the farmers and ranchers that own and take care of land.

Despite the title, this bill isn't really about hunting; it's certainly not about the right to bear arms. Many of our members are hunters themselves and own and use guns. They are not against hunting or hunters.

This bill is about **CRIMINAL TRESPASS**.

It is about people who come onto others' property with deadly weapons. **The current law already requires hunters to get landowner permission but it is not working.** When trespassers are caught, *if* they're caught, they claim to have permission. To add insult to injury, under **HRS §183D-26**, police officers can't even enforce the law unless the landowner files a sworn complaint against the trespasser.

The burden should not be on the rancher or farmer to prove that he did not give permission to a gun-wielding trespasser to use his property.

This scenario is just too dangerous for all parties; the farmer or rancher doesn't know what the trespassers are doing on the property---whether they are legitimately hunting or if they're there to kill the farmer or rancher, slaughter his livestock, or steal his equipment or crops. These illegal

activities are becoming rampant throughout the islands and we need the tools to put a stop to them.

This measure would provide a bright line for farmers and ranchers and for law enforcement to enforce the current laws that prohibit trespass, that prohibit hunting without permission, that prohibit hunting at night.

Members of the law enforcement community have expressed frustration with the current laws and have told us that their hands are tied because trespassing with a gun, especially at night, is NOT a felony offense. In fact, under **HRS §708-813**, **it is not even a misdemeanor unless you can prove that the person knowingly entered the property**. Worse yet, **the property must be fenced or enclosed in a manner designed to exclude intruders**. Where farmers and ranchers can afford it, they fence their lands to keep livestock IN, not to build a fortress to keep people out.

Current law (HRS §183D-26) already requires a hunter to obtain permission from the owner or agent of the private land. We respectfully request several amendments to clarify that it is the hunter's responsibility to get written permission from the landowner.

We believe this is reasonable. Hunters are already required to carry their hunting licenses with them while hunting (**HRS §183D-25**); carrying an additional slip of paper should not be too burdensome.

We are very willing to work with the DLNR and the Hawaii Rifle Association to make sure their concerns are addressed and that legal hunting is not impeded.

Thank you very much for your support of Hawaii's farmers and ranchers.

A BILL FOR AN ACT

RELATING TO FIREARMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that existing provisions in the law are inadequate to deter persons with firearms from trespassing on lands and potentially causing bodily injury to others or damage to property, livestock, and crops. These occurrences have been especially egregious on farms and ranches.

The purpose of this Act is to require those who wish to access private land for hunting or other legitimate purposes to obtain written permission from the landowner.

SECTION 2. Section 134-5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Any person of the age of sixteen years, or over or any person under the age of sixteen years while accompanied by an adult, may carry and use any lawfully acquired rifle or shotgun and suitable ammunition while actually engaged in hunting or target shooting or while going to and from the place of hunting or target shooting; provided that the person has procured a hunting license under chapter 183D, part II[.] and

has obtained written permission from the landowner of the privately owned land to hunt on that land. A hunting license shall not be required for persons engaged in target shooting."

2. By amending subsection (c) to read:

"(c) A person may carry unconcealed and use a lawfully acquired pistol or revolver while actually engaged in hunting game mammals, if that pistol or revolver and its suitable ammunition are acceptable for hunting by rules adopted pursuant to section 183D-3 and if that person is licensed pursuant to part II of chapter 183D[.] and has obtained the written permission from the landowner of the privately owned land to hunt on that land. The pistol or revolver may be transported in an enclosed container, as defined in section 134-25 in the course of going to and from the place of the hunt, notwithstanding section 134-26."

SECTION 3. Section 183D-26, Hawaii Revised Statutes, is amended as follows:

"(a) No person shall enter upon any land or premises belonging to, held, or occupied by another, for the purpose of hunting or to take any kind of wildlife including game without first having obtained written permission from the owner or a duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

~~[(b) No prosecution shall be brought under this section, except upon the sworn complaint of the owner, occupier, or~~

~~holder of the land or premises, or a duly appointed agent, or if
the owner, occupier, or holder is either a corporation or a
partnership, then the complaint shall be sworn to by an officer
of the corporation or by one of the members of the
partnership."}~~

SECTION 4. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2012.

INTRODUCED BY: _____

Report Title:

Agriculture; Hunting

Description:

Restricts hunting to areas on public land where hunting is permitted or to areas on private land where the landowner has granted written permission. Allows transport and possession of firearms and ammunition in areas where hunting is permitted. Effective July 1, 2012.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.